

Centenary Performance and Misconduct Policy and Procedure

1. Purpose

Centenary Institute of Cancer Medicine and Cell Biology (**Centenary**) encourages and expects the performance, behaviour and conduct of its employees to promote:

- respect for others working at Centenary
- a high standard of individual conduct.
- the best interests of Centenary
- compliance with the law and Centenary's policies and procedures

This policy and procedure aims to ensure :

- there is a standard approach to dealing with instances of alleged misconduct, inappropriate behaviour or poor performance
- Centenary employees and **Supervisors** are aware of their rights and responsibilities in the counselling and disciplinary process
- The disciplinary process is managed in line with relevant legislation, industrial relations and standards of procedures fairness and principles of natural justice.

2. Scope

This policy and procedure applies to all Centenary employees.

If the matter involves a person who is not directly employed by Centenary ie consultants, or other persons seconded to work at Centenary, the person will also be referred to their employer ie University of Sydney, UTS, Local Health District etc to ensure that the process also complies with their employers organisation's policies and procedures.

If the matter involves a student the matter would also be referred to their enrolling university.

If the matter involves both a person from another organisation Centenary will work together with the other employer.

All Centenary Workers and students must be aware of and act in accordance with this Policy however they are not subject to the same disciplinary process as a Centenary employee.

If there are concerns about the performance/ behaviour of a person not directly employed by Centenary reserves the right to terminate a person's appointment.

3. Unacceptable performance and behaviours

3.1 Unsatisfactory performance

Unsatisfactory performance occurs where a Centenary employee is not completing all or any part of their work to a satisfactory standard.

It involves an assessment of their performance against the agreed or accepted standards for their role and the resultant impact on the:

- business
- research
- others in Centenary.

Performance measurement is based on:

- the achievement of set objectives, and
- the behaviours required in the position.

3.2 Unacceptable behaviour and misconduct

When a Centenary employee has not met a required Centenary standard of conduct or policy, the person's action may be described as unacceptable behaviour, which may amount to misconduct.

There are many possible examples of unacceptable behaviour and the following list may serve as a guide but is not limited to:

- lateness or attendance issues
- misuse of leave entitlements (such as personal/sick/carer's leave)
- swearing/unacceptable language
- refusing to follow reasonable instructions
- failing to comply with legislation or Centenary's policies or procedures
- breaches of safety standards or requirements
- research misconduct
- exhibiting conduct that is aggressive, disorderly, disruptive, or interferes with the another's work, comfort and/or safety
- misuse of Centenary's IT Environment
- divulging confidential or sensitive information
- harassment, sexual harassment bullying or intimidation
- dishonest or fraudulent behaviour
- theft, fraud or attempted theft
- damaging Centenary property or equipment
- fighting on Centenary premises or assault (either physical or verbal)

- being under the influence of alcohol or drugs while on Centenary premises.

All of the above unacceptable behaviours could amount to misconduct, depending on their nature and seriousness, and whether they are persistent or reflect a pattern of behaviour.

4. What are the Procedures ?

This procedure **does not apply when employees are in their qualifying period** and a decision is made to not extend their employment beyond the qualifying period.

The performance management process may include one or more of the following steps:

1. Analyse the performance, behaviour or allegation to determine next steps.
2. **Informal Process:** Usually (but not limited to) an internal process, where there are minor issues with performance or behaviour, these will be discussed with the employee as they occur.
3. **Formal Process:** Where performance below an acceptable standard continues and informal discussions and coaching have not succeeded in raising the employee's work performance or behaviour, or where the matter is considered significant, a formal process is to be followed.

4.1 Informal Process

The informal process does not require formal notice or the provision of a support person and is discussed with their direct manager with the aim of resolving the matter.

The manager should

- meet with the employee to discuss the concerns about their performance/ behaviour in the workplace.
- Listen to the employee's concerns on the issue and address any issues the employee has raised that have impacted upon their performance (for example resources, training).
- Draft a file note of the meeting which clearly states the issues that have been identified, the employee's response, the action that is required, and a timeframe in which a review will occur. The file note is a document that is signed by both parties .
- Send the file note to People and Culture who will place the document on the employees personnel file
- Ensure they follow up the agreed actions in accordance with the timeline and document any improvements or changes as necessary.

4.2 Formal Process

The manager should :

Consult with People and Culture regarding the concerns prior to undertaking a formal process with an employee. People and Culture will assist with providing any relevant documents/templates as well as the review and drafting of any documentation throughout the formal process.

If a formal process is agreed the manager should undertake the following

- Provide formal notification outlining the concerns/ allegations to all relevant parties
- Give relevant parties a minimum of 24 hrs notice in writing for attendance at a formal meeting
- Make sure you are flexible when scheduling meetings to take the person's needs into account, but not delaying dealing with the matter.
- Give the employee the opportunity to bring a support person.
- Provide any applicable documentation such as relevant policy & procedures etc
- Conduct the interview with a third party present (generally Head of People and Culture or a member of the Senior Leadership team)
- Allow all parties to respond to the concerns/allegations including responding to subsequent allegations.
- Document their responses to the concern/ allegations, allowing them to review this document before they sign it.
- Investigate the evidence provided by the relevant parties.
- Make sure all documentation is accurate and is kept confidential.

In conjunction with People and Culture the manager is to review and discuss all of the evidence and information provided prior to making a decision about the outcome.

4.3 Managing Serious Misconduct

Centenary may at any time suspend an employee with pay to allow a full investigation of alleged serious misconduct to take place.

There is no requirement to undertake an informal process before following formal process for serious misconduct.

If the person is employed by another organisation Centenary reserves the right to suspend access to its building and IT systems whilst an investigation is conducted. This would be done in conjunction with the person's employer and Centenary.

If there is sufficient grounds for considering that serious misconduct may have occurred the manager must notify the head of People and Culture and Deputy Director of Operations.

If approval is provided to stand down the employee whilst the investigation process is undertaken the manager is to inform the employee of the receipt of allegations of serious misconduct.

The formal process outlined above is to be followed

4.3 Outcomes

An outcome as part of a formal process may include but are not limited to formal mediation, provision of information and training, increased supervision, ineligibility to conduct research, apology,

behaviour modification, performance monitoring , employee counselling and disciplinary action. further education, training, counselling or advice, recommendation for termination of employment

Centenary recognises the need to undertake disciplinary action from time to time. Centenary will in carrying out any such measures have regard to undertaking an investigation in line with the principles of procedural fairness and natural justice in order to determine what disciplinary action should be taken.

Managers must liaise with the Head of People and Culture in deciding on the most appropriate course of Disciplinary Action

Prior to any disciplinary action being taken, Centenary will determine on a case by case basis as to the suitable process which is directed to ensuring that:

- parties will have the right to be heard and judged without bias, and
- material issues will be investigated thoroughly and justly.

When Disciplinary Action is required, the manager, the Head of People and Culture and the Senior Leadership team will consider the following to determine the best action to take:

- the nature and seriousness of the allegation or the behaviour in question
- the objective of the Disciplinary Action
- the employees employment/appointment history and record
- whether adequate warning has been given
- whether Centenary's counselling and disciplinary process has been followed
- whether the Centenary employee has had an adequate opportunity to defend themselves
- whether any reasonable alternatives to a proposed course of action exist and are appropriate.

The written advice will be drafted by the manager in conjunction with People and Culture and should clearly outline the

- allegations and the findings,
- relevant policy or procedure that has been breached,
- corrective action to be taken,
- timeframe in which a follow up and review will take place
- What avenue will be taken if a recurrence of this disciplinary issue occurs
- Reference to EAP services

4.4 Termination of Employment

Termination of employment can only be authorised with the express consent of the CEO or their delegate

A formal investigation process is to be undertaken prior to a recommendation for termination of employment is put forward.

Examples of behaviours requiring corrective action which, if repeated, may lead to termination of employment include (but are not limited to): Abuse or mistreatment of other employees. Continuous poor performance, including insolence, misbehaviour or disruption, excessive absenteeism or punctuality problems without reasonable cause, Repetitive breaches of Policies and Procedures, Serious misconduct.

An employee should be provided with the opportunity to attend a meeting to show cause as to why their employment should not be terminated and an outcome provided within two business days of the meeting

Notice shall not be required in relation to the termination of Centenary Worker found to have engaged in serious and/or wilful misconduct of such a nature that it would be unreasonable to require Centenary to continue the employment during a period of notice.

4. Roles and responsibilities

4.1 Supervisors/ Managers

Supervisors/ managers are responsible for initiating Disciplinary Action where it is alleged or it appears to the Supervisor that the Centenary Worker's workplace performance is unsatisfactory or that the Centenary Worker is guilty of unacceptable behaviour or misconduct.

The Supervisor is responsible for:

- knowing and understanding this policy
- knowing their authority levels and limitations; and the legal and industrial implications
- identifying unsatisfactory performance or unacceptable behaviour/misconduct, and
- seeking advice and assistance from the Head of People Ops in finding a solution to performance related problems as soon as they become apparent.

4.2 Head of People and Culture

The Head of People and Culture is responsible for:

- providing advice to managers
- evaluating the experience level of the manager using the process and providing appropriate advice and coaching
- acting as a Third Party Witness
- investigating, in conjunction with the manager any allegations of misconduct or unacceptable behaviour
- ensuring that appropriate action is taken based on the evidence gathered
- using the counselling and disciplinary process to address the problem, and where possible, bringing about a change in behaviour

- the structure, detail and content of counselling sessions and documentation (such as letters of warning, follow-up letters or file memos) generated by counselling or disciplinary process
- debriefing the Executive following any counselling and disciplinary processes, where appropriate
- ensuring that counselling and disciplinary procedures are applied fairly and equitably and represent the best interest of Centenary
- liaising with managers to ensure adequate records are kept.

4.3 Centenary Employees

When unsatisfactory performance, unacceptable behaviour or misconduct issues arise, Centenary employees are responsible for:

- understanding the standards, terms and conditions of their appointment and all rules relating to their role
- understanding Centenary's policies relating to standards of conduct/behaviour and performance
- being aware of this policy
- discussing and agreeing with their manager the performance objectives and standards of their position
- participating in Centenary's performance management process (if applicable)
- communicating with their manager any problems they may have in achieving agreed performance objectives
- advising their Supervisor when they have observed or received complaints or feedback of unsatisfactory performance or unacceptable behaviour/misconduct by others (particularly when the behaviour/misconduct may impact on the safety of others)
- participating in counselling and disciplinary interviews so that:
 - their version of events can be heard
 - any allegations can be investigated
 - any training and development issues or barriers to improvement can be identified and addressed.

4.4 Support Person

The Centenary Worker must be given the opportunity to have another person present during every stage of the Disciplinary Action process. The Support Person may be a friend or co-worker.

The role of the Support Person or Representative Witness is to provide:

- support for the Authorised Person
- observe the quality of process and adherence to guidelines.

Their role is not to:

- resolve or investigate claims
- obstruct or influence, or intervene in, the process or interview.

Their role must be clarified and articulated to them prior to the beginning of the interview.

5. Right of appeal

A Centenary employee may appeal against a Disciplinary Action (other than summary termination for serious misconduct) if he or she believes that:

- Centenary did not adhere to this Policy, or
- the Centenary employee was illegally or improperly discriminated against, for example under Federal or State Discrimination or Equal Opportunity legislation (see also *Workplace Harassment Policy, Equal Employment Opportunity Policy and Grievance Handling Policy*).

In the case of Disciplinary Action for unsatisfactory performance not including unacceptable behaviour as listed in **section 3.2**, the Centenary employee may, within 5 working days from the date of receiving written notification of such unsatisfactory performance make a written request for a review of the decision by the Executive Director.

The CEO's decision is final.

6. Definitions

Centenary means the Centenary Institute of Cancer Medicine and Cell Biology.

Centenary Employee means a Centenary employee (full time, part time or casual)

Centenary Worker means a consultant, contractor, student, affiliate, visiting researcher, Governor, Trustee or volunteer that works at Centenary.

Discipline Issue: Any issue which may amount to alleged misconduct, inappropriate behaviour or poor performance.

Disciplinary Process: A consistent disciplinary process based on procedural fairness is followed to ensure natural justice when addressing the behaviour or performance of an individual which may fall short of the policies, procedures and guidelines, or professional standards expected by the organisation. The disciplinary process does not replace the ongoing requirement for managers to manage an employee's performance, which includes day to day coaching, training and supervision.

Disciplinary Action means the action or actions taken as a result of moving through a counselling process and is the outcome of the Centenary Worker's failure to achieve the required standards of performance or workplace behaviour and for which a penalty or corrective action is deemed appropriate.

Executive means the CEO and those appointed to the executive team

Misconduct: An act done wilfully with the wrong intention and conveys the idea of wrongful intention. Conduct is determined as misconduct based on the nature of the conduct, and not from its consequences.

Procedural Fairness means a process that aims to follow proper investigation of the facts and the circumstances. It is directed to ensuring that the Centenary Worker is given the opportunity to respond to allegations made against him/her, unless the circumstances are such that Centenary could not reasonably be expected to provide this opportunity (as may be the case in gross misconduct, intentional neglect etc).

Poor Performance: Where an employee is not meeting the inherent requirements of their position or fails to achieve a satisfactory standard of performance as defined in their position

description or organisational policies and procedures. This applies only when the standards which have been set and the duties to be performed are reasonable in the circumstances.

Senior Leadership Team means those appointed to the SLT by the CEO

Supervisor/ Manager means the supervisor of an employee as specified in their Appointment

Support Person means anyone a Centenary Worker may choose (but not a solicitor or a barrister) to have present with him or her during the disciplinary and counselling process for personal support or as a witness to the proceedings (but not legal representation).

Serious Misconduct: Examples of this may include but are not limited to:

- o Deliberate behaviour by an employee that is inconsistent with the conditions of their employment;
- o Conduct that causes serious and imminent risk to the health and safety of a person; the reputation, viability or profitability of the organisation;
- o Not following or obeying lawful instructions and directions;
- o Theft/ fraud;
- o Acts of aggression, assault (including sexual assault), violence or fighting;
- o Wilful or malicious damage or destruction of property;
- o Being under the influence of alcohol, prohibited substances or other substances which affect their ability to provide services while on duty;

Suspension/ Standing down of employment: The employer is entitled to suspend an employee on full pay for a reasonable time in order to fully investigate an allegation of misconduct. Suspension is necessary where continued presence of the respondent in the workplace may hinder the investigation or may affect the safety and wellbeing of the organisation, other employees, or the employee under investigation.

Termination of Employment: Termination of employment is the voluntary or involuntary bringing to an end of a contract of employment, which may be done by giving proper notice (e.g. resignation of employee, dismissal or retrenchment by the employer), summarily due to the employee's misconduct, by frustration, repudiation or abandonment of employment by an employee. Termination of employment can only be authorised with the express consent of the Chief Executive Officer, or their delegate

Termination of Appointment: Termination of appointment is the voluntary or involuntary bringing to an end of an appointment to Centenary this would include students, visiting researchers etc

A **Third Party Witness** means a Centenary-nominated third party of suitable seniority whose role is to witness formal counselling and/or disciplinary sessions. The Third Party Witness will be a member of the Executive or its nominee. In most instances the recommended Third Party Witness will be the Head of People and culture.

7. Centenary contacts

Deputy Director, Operations

Dr Nick Pearce n.pearce@centenary.org.au

Head of People and Culture

Ms Alison Kent a.kent@centenary.org.au

8. Related policies and documents

8.1 Centenary Policy resources:

- Discrimination, Harassment and Sexual Harassment P&P
 - Grievance Policy
 - [Workplace Bullying Policy](#)
 - [Records Policy](#)
 - [Work Health and Safety Policy](#)
 - [Information Technology Usage Policy](#)
 - Employment/Appointment Contract
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- **Relevant Federal regulatory bodies and legislation:**
 - [The Australian Fair Work Commission](#)
 - [The Australian Human Rights Commission](#)
 - [Privacy Amendment \(Private Sector\) Act 2000](#)
 - [Workplace Gender Equity Act 2012](#)
 - [The Australian Human Rights Commission Act 1986](#)
 - [Racial Discrimination Act 1975](#)
 - [Sex Discrimination Act 1984](#)
 - [Disability Discrimination Act 1992](#)
 - [Age Discrimination Act 2004](#)
 - [Fair Work Best Practice Guide for Managing Underperformance](#)

8.2 Relevant NSW regulatory body and legislation:

- [Anti-Discrimination NSW](#)
- [NSW Anti-Discrimination Act 1977](#)
- [NSW WHS Act 2011](#)

Performance and Misconduct Policy				
Version	Approval Date	Amendment	Update by	Review date
1	20100302	New policy	Judith Barry	2015
2	20210405	Reformatted to Centenary policy template, name change, minor updates	Lois Cavanagh	2026
3	202311	Updated to reflect changes to FWA Legislation, reviewed to include procedure, reworded to provide clear directions and process	Alison Kent	2026